

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF MISSISSIPPI
EASTERN DIVISION**

WAL-MART STORES, INC.

PLAINTIFF

V.

CAUSE NO. 1:06CV326

**QORE, INC.; SAIN ASSOCIATES, INC. AND
SHANNON, STROBEL & WEAVER CONSTRUCTION
& ENGINEERS, INC.**

DEFENDANTS

**SHANNON, STROBEL & WEAVER CONSTRUCTION
& ENGINEERS, INC.**

THIRD PARTY PLAINTIFF

V.

CAMCO CONSTRUCTION COMPANY, INC.

THIRD PARTY DEFENDANT

ORDER

This cause comes before the court on the objection [185] of defendant, Qore, Inc. (“Qore”) to deposition designations offered by the other parties.

Qore first objects to the deposition designations of John Bowman, Lawren Pratt, and Charles Olgee on the grounds they are listed as ‘will call’ witnesses.

Having reviewed the pre-trial order the court finds only Charles Olgee is actually listed as a ‘will call’ witness. Qore’s objection to his deposition designation is sustained. Because the other complained of witnesses are not listed as ‘will call’ witnesses a deposition designation for them is appropriate.

Qore next objects to the designation offered for the testimony of Neal Coker because it has not been shown that he is unavailable. The response by plaintiff, Wal-Mart Stores, Inc. (“Wal-Mart”), does not address whether Coker is available. As such the court is unable to rule

on the merits of this objection. This objection will be reserved for trial.

Similarly, Qore objects to the designation offered for Ed Springer unless it can be shown he is unavailable. Defendant, Shannon, Strobel & Weavers Constructors & Engineers, Inc. (“SSW”), does not respond to this objection. As such the court will reserve the objection for trial.

Qore objects to the designation offered for William Todd Kennard. Wal-Mart and defendant, Sain Associates, Inc., agree to the changes requested. SSW did not respond to this objection. The court will reserve this objection for trial. However, the court hopes SSW and Qore can come to agreement in accordance with the compromises made by the other parties.

Qore next objects to Wal-Mart’s designation of Randy Toomer’s testimony. Again Wal-Mart has agreed to the changes requested by Qore. This objection is moot.

Qore’s objections are SUSTAINED IN PART and RESERVED IN PART.

This the 3rd day of February, 2009.

/s/ MICHAEL P. MILLS
CHIEF JUDGE
UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF MISSISSIPPI